

WINDHAM SUPERIOR COURT
STATE OF VERMONT

RICHARD L. ELKINS and
RONALD RODJENSKI,

Plaintiffs

v.

MICROSOFT CORPORATION, a
Washington Corporation,

Defendant.

Docket No. 165-4-01 Wmcv

AMENDED CLASS ACTION COMPLAINT FOR MONETARY RELIEF

Plaintiffs, on behalf of themselves and all others similarly situated, allege as follows against defendant Microsoft Corporation, hereinafter referred to as "Microsoft," on information and belief, formed after an inquiry reasonable under the circumstances:

1. JURISDICTION AND VENUE

1. This Court has subject matter jurisdiction over Plaintiffs' Amended Class Action Complaint for Damages and venue is proper in this Court.

2. Jurisdiction over the Defendant comports with the United States Constitution and the long-arm provisions of Vermont statutes.

3. Microsoft has transacted and continues to transact business within the State of Vermont, and the claims of Plaintiffs arise out of the transaction of such business. Without limiting the generality of the foregoing, the torts and wrongs alleged herein were committed within the jurisdiction of this Court; the damages and losses alleged herein were suffered in this jurisdiction; the rights of Plaintiffs and members of the proposed classes were impaired in this jurisdiction, all as more particularly described herein.

8. Plaintiff Ronald Rodjenski ("Rodkensi") is a resident of Chittenden County, Vermont. Rodjenski purchased Microsoft's Windows 95 operating system with Microsoft Word, Excel and Internet Explorer software preinstalled on at least one computer during the Class Period, as defined herein. Rodjenski also upgraded his preinstalled Windows 95 to a subsequent version of Windows 95 and in addition purchased an Office Professional Upgrade to his Windows 95 Office System. Rodjenski is a proposed class representative for the Class, as defined below.

9. Defendant Microsoft is a corporation organized and existing under the laws of the State of Washington, with its principal place of business located at One Microsoft Way, Redmond, Washington. Microsoft sells and licenses Intel-compatible PC operating systems, including Windows 95 and Windows 98, web browsers, and Microsoft Word and Excel word processing and spreadsheet software throughout the United States and Vermont. Microsoft's registered agent for service of process in Vermont is the Corporation Service Company, 159 Main Street, Montpelier, VT 05602.

IV. CLASS ACTION ALLEGATIONS

10. Plaintiffs bring this class action pursuant to Rule 23 of the Vermont Rules of Civil Procedure. These claims are brought on behalf of a class comprised of all Vermont purchasers of Microsoft Windows or MS-DOS operating system software; Microsoft Word or Excel software programs; or who received a copy of Internet Explorer either separately or in connection with any such purchase or subsequent upgrade, regardless of whether separate consideration was paid for Internet Explorer. The Class excludes defendant, its subsidiaries, affiliates, officers and directors, and employees. "Vermont Purchaser" includes all persons or entities who, on or after January 1, 1988 to the present ("the Class Period") purchased Word,

Plaintiffs and members of the class are entitled, as their compensatory remedy, to damages in an amount to be established at the trial of this action.

D. That, in addition to compensatory relief, Plaintiffs and members of the class are entitled to exemplary damages equaling three times the consideration paid for the software, as permitted by the Vermont Consumer Fraud Act.

E. That, in addition to compensatory relief and exemplary relief, plaintiffs and each members of the class is entitled to recover his or her proportional costs and attorneys fees, as provided by law;


F. That, in addition, plaintiffs and members of the respective classes are entitled to prejudgment interest at the highest legal rate; and

G. That Plaintiffs and each member of the Plaintiff Class be granted such other and further monetary relief as may be required or as may be deemed just and proper by this Court.

Dated at Brattleboro, Vermont this 7th day of April, 2003.

RICHARD L. ELKINS and
RONALD RODJENSKI by their
Co-Counsel

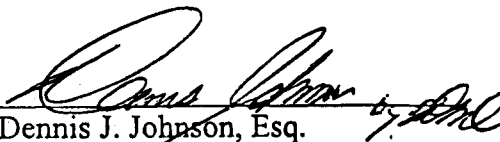
By:



David N. Dunn, Esq.
Potter Stewart, Jr., Esq.
Potter Stewart, Jr. Law Offices, P.C.
The Merchants Bank Building, Suite 8
205 Main Street
Brattleboro, Vermont 05301
(802) 257-7244

and

By:



Dennis J. Johnson, Esq.

Jacob B. Perkinson, Esq.

JOHNSON & PERKINSON

1690 Williston Road

South Burlington, VT 05403